

Appl. No. 09/927,543
Amendment dated: August 22, 2003
Reply to OA of: April 24, 2003

REMARKS

Applicant acknowledges with appreciation the courtesy of the interview extended the inventor, Josephine L. Ferguson, at which time the outstanding rejection was discussed but no agreement was reached as to the allowability of presently claimed invention.

The claims have been amended in view of the outstanding Official Action. In this regard, the Examiner's helpful comments are very much appreciated and have been taken into consideration in amending the claims.

The rejection of claims 3-7, 9 and 12-13 under 35 U.S.C. 112, first paragraph, has been carefully considered but is respectfully traversed in view of the amendments to the claims. As noted in the Official Action, the specification only teaches nylon and the claims have been amended to be the same scope as the specification. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Similarly, the subject matter of claim 11 is no longer claimed in the present application thereby obviating the rejection of claim 11. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 3-13 under 35 U.S.C. 112, second paragraph, has been carefully considered but is most respectfully traversed in view of the amendments to the claims and taking into consideration the level of one of ordinary skill in the art to which the invention pertains. In the Official Action, it is stated that the Applicant must amend the claims so that it is clear how the non-absorbent material relates to the front and back portion. However, the claim has been amended to eliminate this aspect as the claim simply relates to a pillowcase and specifies the portion in contact with the face and hair which is the most important aspect of the invention. Accordingly, it is most respectfully requested that this rejection be withdrawn.

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Applicant notes the Examiner's comments with respect to "low frictional surface" used in claim 5. In addition, the Examiner's helpful comments concerning the protective cover which is for hair has been noted and it is believed that claim 14 particularly defines the invention to one of ordinary skill in the art to which the invention pertains. The pillowcase portion which contacts the face and hair of a user comprises a woven, non-absorbent, low friction for the hair and face of the user, smooth textured nylon material. This clearly defines the invention and would be fully understood by one of ordinary skill in the art.

The structure of a pillowcase is well known and as noted in the Summary of the Invention on page 3 of the specification, the discovery and invention is directed at protecting human hair, pillows, bed pillows, pillowcases and all types of fabric surfaces from damage. This nylon cover substantially obviates the problems and damage to human hair when lying against fabric surface. The nylon cover is used by placing it over an item and it is silky smooth, soothing and comfortable to the touch.

As further noted on page 4 of Applicant's specification, when using the nylon cover, hairline erosion, hair breakage, loss of natural hair oils and loss of hair moisture is eliminated. Because the nylon cover has these properties and is used by placing it over an item, it allows free, unbounded movement of the head and the hair. There is absolutely no suggestion of the unique combination of properties exhibited by the presently claimed invention in the prior art.

The rejection of claims 3-9 and 12 under 35 U.S.C. 102(b) as being anticipated by Skillington has been carefully considered but is most respectfully traversed in view of the amendments to the claims. In this regard, Applicant most respectfully directs the Examiner's attention to MPEP § 2131 which states that to anticipate a claim, the reference must teach every element of the claim.

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"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed.Cir. 1990).

The Skillington reference in the paragraph bridging columns 3 and 4 that in order to accommodate the large size pillow 14, the pillowcase 10 must be made of an elastic material. In the preferred embodiment, the material is 85% nylon but it is stated in the next paragraph that it is not limited to these specific percentages. The general requirement of the material is that it be smooth yet elastic along all accesses in the plane of the material. Other fabric content combinations that are workable include 80% nylon, 20% spandex, 60% nylon, 40% spandex, 75% nylon-25% spandex and 50% nylon. Clearly, the requirement of the presently claimed pillowcase which comprises a woven, non-absorbent, low friction for the hair and face for the user, smooth textured material consisting of nylon obviates this rejection. Moreover, the suggestion for a higher content of nylon, 95% is not taught in the reference but in fact, the teaching of the reference is **not** to use 100% nylon in accordance with the presently claimed invention. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 3-9 under 35 U.S.C. 102 as anticipated by Elesh has been carefully considered but is most respectfully traversed. As noted in the Abstract of this reference, the process begins with a tightly woven taffeta or ripstop weave cloth made from fine nylon or polyester threads. First, one surface of the taffeta is coated with a urethane water repellant. Next, the partially finished product is treated by immersion in a bacteriostatic and fungistatic, a fire retardant, and an anti-static bath. The cloth is then cut and sewn into a desired, at least partially, finished product, as a

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pillow cover or mattress ticking and can be vented as desired. This in no way anticipates the presently claimed invention containing a pillowcase comprising a material which contacts the face and hair of a user and which comprises a woven, non-absorbent, low friction for the hair and face of the user, smooth textured material consisting of nylon. The Elesh reference does not consist of a pillowcase consisting of a nylon material in accordance with the presently claimed invention. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 10-13 under 35 U.S.C. 103 as being unpatentable over Elesh in view of Van Pelt and Davis has been carefully considered but is most respectfully traversed since the teachings of the secondary reference to Van Pelt and Davis do not overcome the deficiencies in the primary reference and do not lead one of ordinary skill in the art to the presently claimed invention consisting of nylon which has sufficient properties which allows for free, unbound movement of the head and hair and will not absorb and rob the hair of natural oils and moisture when in use. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 10, 11 and 13 under 35 U.S.C. 103 as being unpatentable over Skillington in view of Van Pelt and Davis has been carefully considered but is most respectfully traversed.

The Official Action refers to the features of Skillington as has been set forth above. It notes that Skillington fails to teach using panels of different size having contrasting panels in the pillowcase. However, as previously noted in Applicant's response, Skillington has further deficiencies in not teaching the pillowcase as in the present application comprising a material which consists of nylon. Accordingly, it is most respectfully requested that this rejection be withdrawn.

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In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all of the claims now present in the application are most respectfully requested.

Respectfully submitted,

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